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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,389	02/05/2004	BRANDI LOUCKS	021345-000063	6345

24239 7590 06/10/2009  
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EXAMINER
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BRADEN, SHAWN M

ART UNIT	PAPER NUMBER
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3781

MAIL DATE	DELIVERY MODE
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06/10/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/773,389	<b>Applicant(s)</b> LOUCKS ET AL.	
	<b>Examiner</b> SHAWN M. BRADEN	<b>Art Unit</b> 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/07/2009 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Nowhere in the specification can it be found the following underlined passage where defined "a cushion pad positioned in and substantially covering the recess such that it is substantially coextensive with the rim wall the cushion pad oriented such that the cushion pad faces a user when the user carries the laundry basket the cushion pad being formed from a secondary material that is softer than the primary material of the curved wall portion".

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4. The term "substantially covering and substantially coextensive" in claim 8 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear to the extent of how much, a substantial amount of covering is.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

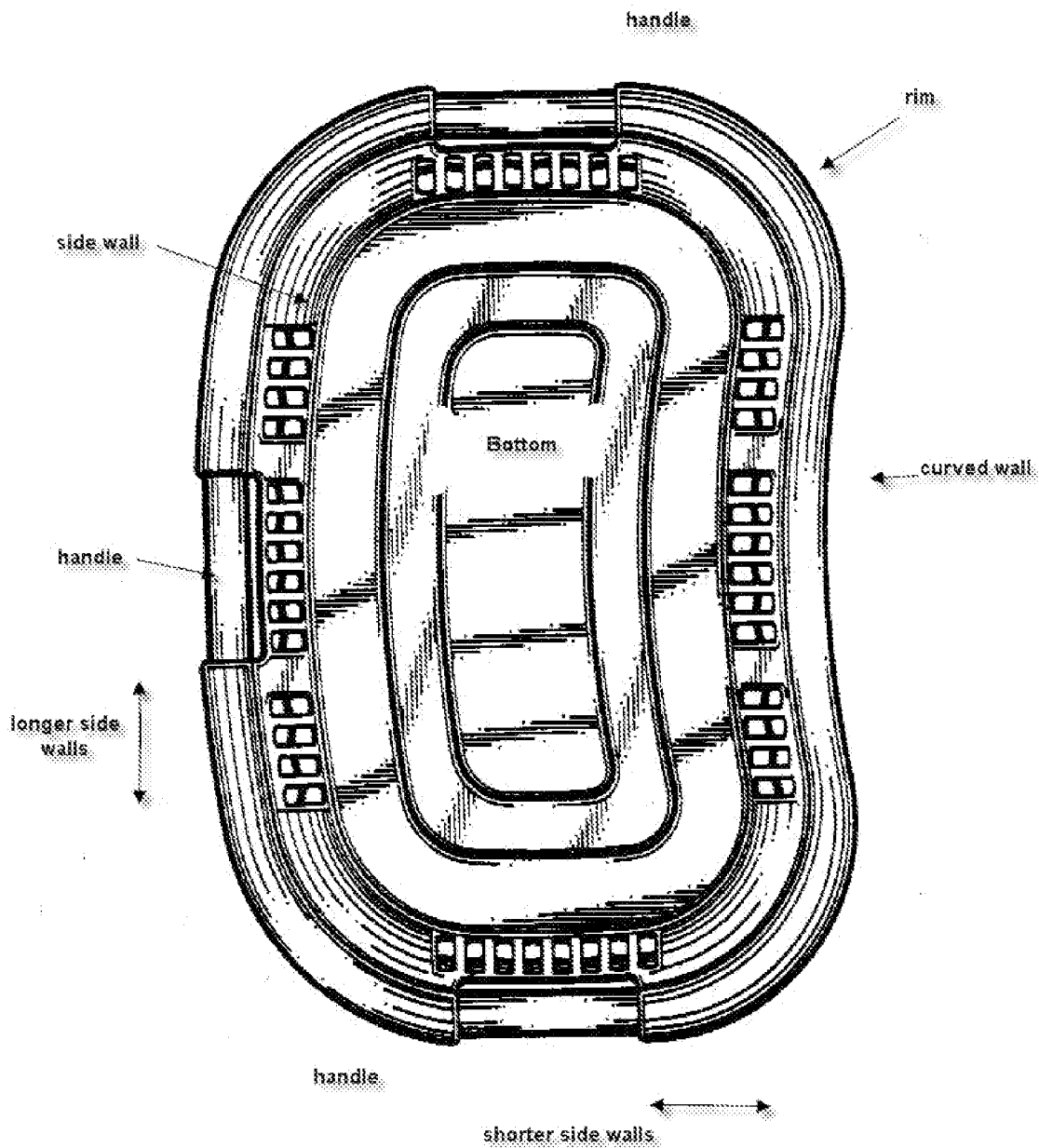
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4,7-9,11-13,15-19,21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craft (USPN Des. 343,711) in view of Bullock (2,187,263).

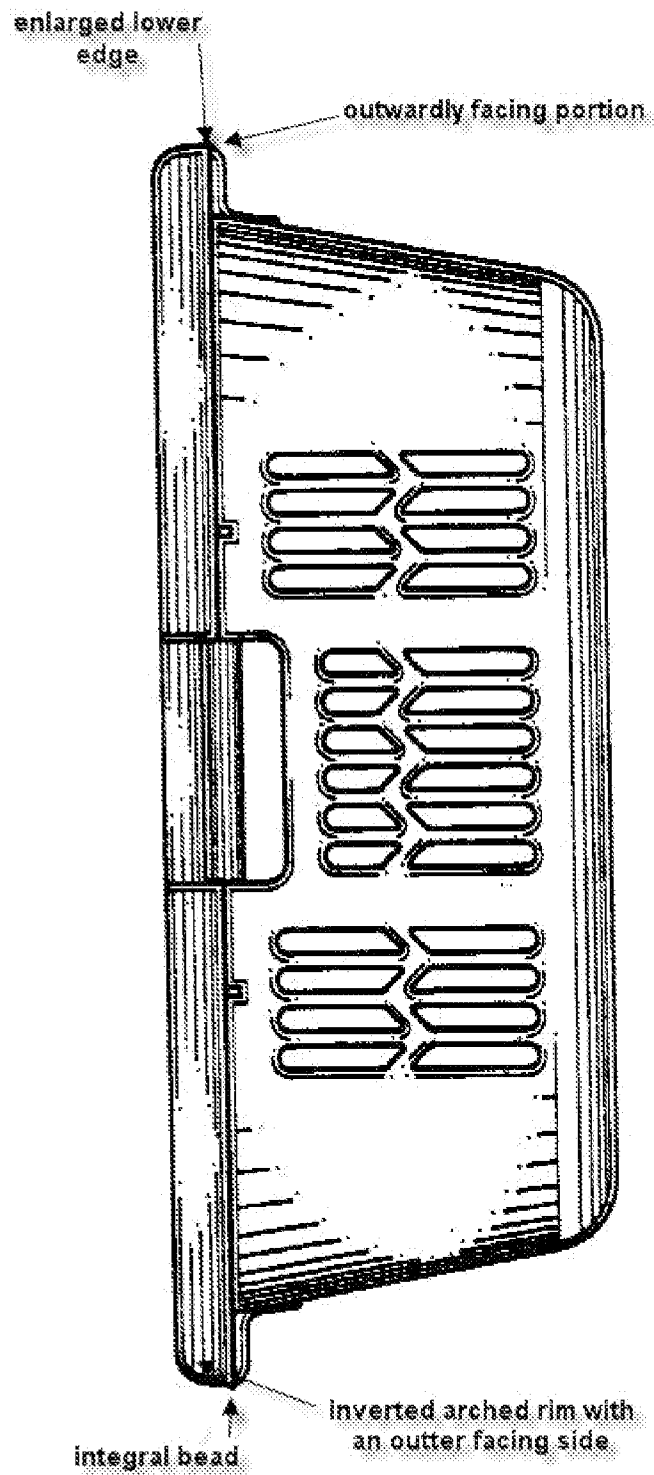
Craft discloses the invention substantially as claimed. Craft shows a thermoplastic laundry basket as shown below including a portion of the side wall disposed opposite the curved wall section includes a handle having a grip opening, and wherein the curved wall section is devoid of a handle having a grip opening.

Craft shows in fig. 2 detailed below

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See also Craft fig. 4 below



**FIG. 4**

However Craft does not disclose a recess formed in the outwardly facing portion of the rim wall and positioned to coincide with the curved wall section; a cushion pad positioned in and substantially covering the recess such that it is substantially coextensive with the rim wall, the cushion pad oriented such that the cushion pad faces a user when the user carries the laundry basket the cushion pad being formed from a secondary material that is softer than the primary material of the curved wall portion, the secondary material is thermoplastic elastomer, the secondary material comprises a thermoplastic elastomer having a Shore A or Shore D hardness that is less than a Shore A or Shore D hardness of the primary material, the secondary material arranged to present a friction enhancing surface along the hip hugging region, the friction enhancing surface having a second coefficient of friction greater than the first coefficient of friction.

Bullock teaches a recess (between 20 and 21) formed in the outwardly facing portion of the rim wall and positioned to coincide with the curved wall section; a cushion pad (19) positioned in and substantially covering the recess such that it is substantially coextensive with the rim wall (the cushion covers the entire edge), the cushion pad oriented such that the cushion pad faces a user when the user carries the laundry basket the cushion pad being formed from a secondary material (rubber col 2 line 5) that is softer than the primary material of the curved wall portion in the same field of

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endeavor for the purpose of having an attractive appearance (col 1 line 15), the secondary material is thermoplastic elastomer (rubber), the secondary material comprises a thermoplastic elastomer having a Shore A or Shore D hardness that is less than a Shore A or Shore D hardness of the primary material (the rubber would be softer than the plastic of Craft), the secondary material arranged to present a friction enhancing surface along the hip hugging region, the friction enhancing surface having a second coefficient of friction greater than the first coefficient of friction (rubber would have more friction than the plastic shown in Craft).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to place a rubber rim inside a recess as taught by Bullock to the container of Craft in order to add an attractive appearance (col 1 line 15).

7. Claims 5,14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craft (USPN Des. 343,711) in view of Bullock (2,187,263) as applied to claim 4 above, and further in view of Koda (USPN5,133,472).

Craft in view of Bullock discloses the invention substantially as claimed. However Craft in view of Bullock does not disclose a handle grip formed on the handle from the secondary material.

Koda teaches a handle grip formed on the handle (36) from the secondary material in the same field of endeavor for the purpose of adding grip for a user.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a handle grip formed on the handle from the secondary material in order to add further grip for the user.



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8. Claims 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craft (USPN Des. 343,711) in view of Bullock (2,187,263) as applied to claim 4 above, and further in view of Pink (USPN Des 279,278

Craft in view of Bullock discloses the invention substantially as claimed.

However Craft in view of Bullock does not disclose a basket with the shape of a second inwardly curved wall section formed on one of the pair of end sections.

Pink teaches a basket with the shape of a second inwardly curved wall section formed on one of the pair of end sections for the purpose of holding aquatic plants.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to made the container of Craft in view of Bullock have two curved sidewalls in order to hold aquatic plants.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHAWN M. BRADEN whose telephone number is (571)272-8026. The examiner can normally be reached on Mon-Friday 9-6:30 est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Anthony D Stashick/  
Supervisory Patent Examiner, Art  
Unit 3781

/S. M. B./  
Examiner, Art Unit 3781